



Order Filed on October 26, 2017
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

STARK & STARK

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In re:

ANTHONY M. MORTELLITE, JR., and COLLEEN
MORTELLITE,

Debtors.

CASE NO. 17-21818 (ABA)

In the Matter of:

BLUES BROTHERS, LLC,

Debtor.

CASE NO. 17-21820 (ABA)

Judge: Andrew B. Altenburg

Chapter: 12

**ORDER (1) WITHDRAWING MOTION FOR ORDER AUTHORIZING CONTINUED
USE OF CASH COLLATERAL; (2) DENYING VACATING ORDER VACATING
AUTOMATIC STAY; (3) SCHEDULING CONFIRMATION HEARING; AND (4)
GRANTING OTHER RELIEF**

The relief set forth on the following pages, numbered two (2) through three (3) is hereby
ORDERED.

DATED: October 26, 2017


Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court

Debtor: In re Mortellite, Anthony & Colleen; In re Blues Brothers, LLC

Cases No: 17-21818 & 17-21820

Caption: ORDER (1) WITHDRAWING MOTION FOR ORDER AUTHORIZING CONTINUED USE OF CASH COLLATERAL; (2) DENYING VACATING ORDER VACATING AUTOMATIC STAY; (3) SCHEDULING CONFIRMATION HEARING; AND (4) GRANTING OTHER RELIEF

This matter is before the Court on the motion (the “Motion”) of Anthony M. Mortellite, Jr. and Colleen Mortellite, debtors in case no. 17-21818 and Blues Brothers, LLC, debtor in case no. 17-21820, seeking an Order Authorizing The Continued Use of Cash Collateral and Vacating Order Vacating Automatic Stay (DOC # 120); and

IT APPEARING that after the Motion was filed, Anthony M. Mortellite, Jr. and Colleen Mortellite, debtors in case no. 17-21818, and Blues Brothers, LLC, debtor in case no. 17-2182, filed a Second Amended Chapter 12 Plan in case no. 17-21818 (DOC # 130) (the “Mortellite and Blues Brothers Second Amended Plan”); and

IT FURTHER APPEARING that on October 20, 2017, the Court heard oral argument on the Motion; and for good cause shown:

IT IS ORDERED as follows:

1. Cash Collateral Motion. The debtors, Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, **WITHDRAW** their motion to continue to use cash collateral. Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, shall not use any cash collateral for any reason without the prior written consent of Farm Credit or an Order from this Court.
2. Re-imposition of Automatic Stay. The Court **DENIES** the debtors’ motion to vacate the order vacating the automatic stay entered on October 6, 2017 in case no. 17-21818 (DOC # 116) (“Stay Relief Order”). However, the Court conditions the Stay Relief Order, as follows:

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- a. Real Property - Farm Credit shall be entitled to proceed with its pending foreclosure litigation against the real property described in the Stay Relief Order (the "Farm"), including but not limited to seeking final judgment. Farm Credit shall not schedule or advertise a sale of the Farm until after November 17, 2017.
- b. Personal Property – As a judgment creditor with stay relief, Farm Credit shall be entitled to execute against all personal property owned by Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC (the "Personal Property"), *except for the personal bank accounts (the "Personal Bank Accounts")* of Anthony M. Mortellite, Jr., Colleen Mortellite which the debtors represent has a balance of less than \$1,000. The Sheriff of Camden County or any other County shall be entitled to execute on the Personal Property (excluding the Personal Bank Accounts) by performing a constructive levy with all Personal Property to remain in possession of the Debtors. Farm Credit shall also be entitled to levy on all bank accounts in which the Debtors have an interest, but not seek turnover of any funds, except for the Personal Bank Accounts. At the confirmation hearing scheduled below, the Court can make a further determination as to whether any levy should be released (if the Plan is confirmed) or whether Farm Credit is entitled to proceed to take possession and sell the Personal Property (if the Plan gets denied).

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- c. Farm Credit shall not seek turnover or possession of any Personal Property or schedule a sheriff sale of any Personal Property until after November 17, 2017.

3. Plan and Confirmation Hearing Schedule

- a. The Court shall conduct confirmation hearings (the "Confirmation Hearings") on the Mortellite Blues Brothers Second Amended Plan on November 17, 2017, commencing at 11:00 a.m.
- b. The Confirmation Hearings shall be held before the Honorable Andrew Altenburg, in Courtroom No. 4B, United States Bankruptcy Court, 400 Cooper Street, Fourth Floor, Camden New Jersey.
- c. On or before November 3, 2017, the Debtors shall serve on counsel for Farm Credit and the Chapter 12 Trustee all documents the Debtors intend to refer to or introduce into evidence at the Confirmation Hearings, including any expert reports that were not previously produced (ie. Debtors' accountant).
- d. On or before November 10, 2017, Farm Credit shall serve any additional expert reports for any expert that may testify at the Confirmation Hearings. Any reports produced in accordance with the prior scheduling Order shall be deemed served in accordance with this Order.
- e. Any objections to the Mortellite Blues Brothers Second Amended Plan shall be filed by November 13, 2017.

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f. Nothing in this Order shall be deemed a finding or ruling that the bankruptcy estates of Anthony M. Mortellite, Jr., Colleen Mortellite and Blues Brothers, LLC, are substantively consolidated.

NOTICE OF ORDER

The Debtors shall serve a copy of this Order and Notice by electronic mail only within two (2) business day from the date hereof, on (i) counsel for Farm Credit, and (ii) counsel for Chapter 12 Trustee. The Debtors shall immediately file with the Clerk a Certificate of Service of said mailing.

In re:
Anthony M Mortellite, Jr
Colleen T Mortellite
Debtors

Case No. 17-21818-ABA
Chapter 12

CERTIFICATE OF NOTICE

District/off: 0312-1

User: admin
Form ID: pdf903

Page 1 of 1
Total Noticed: 1

Date Rcvd: Oct 26, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 28, 2017.

db/jdb +Anthony M Mortellite, Jr, Colleen T Mortellite, 564 11th St., Hammonton, NJ 08037-8468

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 28, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 26, 2017 at the address(es) listed below:

Andrea Dobin on behalf of Trustee Andrea Dobin adobin@trenklawfirm.com
Andrea Dobin ecftrusteead@trenklawfirm.com, NJ55@ecfcbs.com
CheryLynn Walters on behalf of Creditor Township of Winslow cwalters@prlawoffice.com
David A. Kasen on behalf of Joint Debtor Colleen T Mortellite dkasen@kasenlaw.com
David A. Kasen on behalf of Unknown Role Type Blues Brothers, LLC dkasen@kasenlaw.com
David A. Kasen on behalf of Debtor Anthony M Mortellite, Jr dkasen@kasenlaw.com
David A. Kasen on behalf of Debtor Blues Brothers, LLC dkasen@kasenlaw.com
Denise E. Carlon on behalf of Creditor Kubota Credit Corporation dcarlon@kmllawgroup.com, bkgroup@kmllawgroup.com
Eamonn O'Hagan on behalf of Creditor United States Department of Agriculture - Farm Service Agency eamonn.ohagan@usdoj.gov
Erin Darden on behalf of Creditor United States of America erin.darden@usdoj.gov
Heather Lynn Anderson on behalf of Creditor State Of New Jersey Division Of Taxation heather.anderson@law.dol.lps.state.nj.us
Jenny R. Kasen on behalf of Debtor Anthony M Mortellite, Jr jkasen@kasenlaw.com, dkasen@kasenlaw.com
Jenny R. Kasen on behalf of Joint Debtor Colleen T Mortellite jkasen@kasenlaw.com, dkasen@kasenlaw.com
Jenny R. Kasen on behalf of Debtor Blues Brothers, LLC jkasen@kasenlaw.com, dkasen@kasenlaw.com
John E. Corbett on behalf of Creditor Lance Henry jecorbett@corbettlaw.net
John R. Morton, Jr. on behalf of Creditor Americredit Financial Services, Inc., d/b/a GM Financial ecfmail@mortoncraig.com, mortoncraigecf@gmail.com
John R. Morton, Jr. on behalf of Creditor Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services ecfmail@mortoncraig.com, mortoncraigecf@gmail.com
Joseph A McCormick, Jr. on behalf of Creditor Deere & Company jmccormick@mccormicknjlaw.com, karen@mccormicknjlaw.com;Lorraine@mccormicknjlaw.com;Kathleen@mccormicknjlaw.com;Karen@mccormicknjlaw.com
Marshall T. Kizner on behalf of Creditor Farm Credit East, ACA mkizner@stark-stark.com
Ross J. Switkes on behalf of Trustee Andrea Dobin rswitkes@trenklawfirm.com
Steven P. Kelly on behalf of Creditor Arvest Central Mortgage Company skelly@sterneisenberg.com, bkecf@sterneisenberg.com
Timothy P. Duggan on behalf of Creditor Farm Credit East, ACA tduggan@stark-stark.com
U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov
Walter F. Gavigan, Jr. on behalf of Creditor Lee Rain, Inc. wgavigan@grucciopepper.com, jlynch@grucciopepper.com;r53898@notify.bestcase.com
William E. Craig on behalf of Creditor Wells Fargo Bank, N.A., d/b/a Wells Fargo Dealer Services mortoncraigecf@gmail.com, mortoncraigecf@gmail.com

TOTAL: 25